

REMARKS

By this amendment, no claims have been cancelled or added. Accordingly, claims 11-28 remain in the application.

Applicant appreciates the allowance of claims 19-20 and 22-27, and the indication that claim 18 would be allowed if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant will hold the amendment of claim 18 in abeyance pending further action by the examiner.

Claims 11-14 and 28 have been rejected as allegedly being obvious over the patent to Oliver in view of the newly cited patent to Arnett, et al., U.S. 6,244,268. The examiner also has rejected claims 15-17 under 35 U.S.C. 103(a) over the patent to Oliver in view of the previously cited patents to Healy, Esposito, and Madden, respectively. Applicant traverses the rejection of claims 11-17 and 28 and requests reconsideration.

Applicant agrees with the examiner that Oliver does not disclose a bag within which the folded drape is disposed. Even though Arnett teaches a container within which a plurality of surgical drapes are disposed, it would not have been obvious to one skilled in the art to combine the Oliver and Arnett devices to produce the claimed invention.

As set forth in claim 11, the present invention claims a bag and a drape that are sufficiently long that they extend beyond the side edges of the operating table. In addition, claim 11 states that " . . . upon opening the bag while the patient is on the operating table, the drape can be extended to cover the end and a portion of the side

edges of the operating table.” The claimed invention contemplates that both the bag and the drape will be on the table while the patient is on the table.

Arnett discloses a container 50 within which a continuous rolled length of surgical drapes 20 are disposed. Arnett’s drapes 20 are intended to be dispensed one-by-one from the container 50. Arnett’s container 50 is generally cylindrical, and clearly would not be capable of “extending beyond the side edges of the operating table,” as claimed. Arnett states that “[t]he container 50 is . . . dimensioned to be held in one hand” and “ . . . about 8 inches long, 5 inches wide and 4 inches tall . . .” Column 5, lines 27-34. Because the container 50 is cylindrical and because it contains a number of surgical drapes 20, it would not be possible to place the container 50 on the operating table and dispense a drape therefrom while the patient is on the table, as claimed. In effect, Arnett’s container 50 is not a “bag” as called for by claim 11, nor does it meet the limitation concerning extending beyond the side edges of the table.

Despite the examiner’s argument that it would have been obvious to store Oliver’s drape in Arnett’s container, there would be no incentive to one skilled in the art at the time the invention was made to store make such a combination. Such a combination would have rendered Arnett’s invention ineffective for the purpose for which it was created, namely, to provide a container from which a plurality of connected surgical drapes could be dispensed seriatim. Due to the constraints of Arnett’s container 50, as noted above, putting Oliver’s drape in Arnett’s container would not permit a patient to be place thereon or for the container/drape combination to extend over the side edges of the table. For these reasons, the subject matter of claim 11

would not have been obvious over the patent to Oliver in view of the patent to Arnett.

The other rejected claims (claims 12-17 and 28) are dependent on claim 11. Since they contain all of the limitations of the parent claim, by definition the references cited by the examiner cannot render the dependent claims obvious. Accordingly, the rejection of these claims is improper.

CONCLUSION

The patents relied on by the examiner fail to render obvious the invention claimed by applicant. The application now should be in condition for allowance. If the Examiner has any remaining questions, he is requested to telephone the undersigned attorney in order to expedite prosecution of the application.

Respectfully submitted,

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